



## **POSTAL SERVICE**

### **39 CFR Part 111**

#### **Periodicals — Recognition of Distribution of Periodicals via Electronic Copies**

**AGENCY:** Postal Service™.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes to revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) 707.6, to allow publishers who use electronic distribution methods to report such circulation as paid or requested distribution, as applicable.

**DATES:** We must receive your comments on or before **[INSERT 30 days from date of publication]**. Early comments are encouraged.

**ADDRESSES:** Mail or deliver written comments to the Manager, Product Classification, U.S. Postal Service®, 475 L'Enfant Plaza SW, Room 4446, Washington DC 20260-5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11<sup>th</sup> Floor N, Washington DC by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 1-202-268-2906 in advance. Email comments, containing the name and address of the commenter, may be sent to: *Product Classification@usps.gov*, with a subject line of "epublications." Faxed comments are not accepted.

**FOR FURTHER INFORMATION CONTACT:** Susan Thomas at 202-268-8069.

**SUPPLEMENTARY INFORMATION:**

Recent advances in technology allow distribution of Periodicals publications through various electronic media channels. According to the standards that govern the Periodicals class, all paid circulation for publications authorized in the General category, and all requested circulation for publications authorized in the Requestor category may be counted toward the publication's eligibility for Periodicals prices.

Efforts to identify the conditions that would allow electronic copies of Periodicals (e-pubs) to be counted with other distribution outside the mails have been ongoing for the past two years. During that time, the transition from traditional printed copies of Periodicals to electronic copies of the same publications has grown. Many factors contributed to this migration including the proliferation of electronic reading devices and the desire of subscribers to read news immediately upon publication.

The proposed effective date is September 30, 2012.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. of 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

#### **List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR Part 111 is proposed to be amended as follows:

**PART 111 — [AMENDED.]**

1. The authority citation for 39 CFR Part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301-307; 18 U.S.C. 1692-1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), as follows:

***Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM)**

\* \* \* \* \*

**700 Special Standards**

\* \* \* \* \*

**707 Periodicals**

\* \* \* \* \*

**6.0 Qualification Categories**

**6.1 General Publication**

\* \* \* \* \*

**6.1.2 Circulation Standards**

General publications must meet these circulation standards:

\* \* \* \* \*

*[Revise the first sentence in item 6.1.2c as follows:]*

Persons whose subscriptions are obtained at a nominal price and those whose copies bear an alternative form of address (except as allowed for electronic copies in 6.5) must not be included in the legitimate list of subscribers. \* \* \*

\* \* \* \* \*

## **6.4 Requester Publications**

\* \* \* \* \*

### **6.4.2 Circulation Standards**

Requester publications must meet these circulation standards:

\* \* \* \* \*

*[Revise the second sentence in 6.4.2e as follows:]*

- e. \* \* \* Copies addressed using an alternative address format (except as allowed for electronic copies under 6.5) are not considered requested copies, and persons are not considered to have requested the publication if their copies are addressed in that manner.

\* \* \* \* \*

*[Renumber current 6.5 through 6.6 as new 6.6 through 6.7 and add new 6.5 as follows:]*

## **6.5 Electronic Copies**

Copies of Periodicals publications distributed through email or by accessing a password protected website (e-pubs) may be counted toward an approved or pending general or requester publications' eligibility for Periodicals prices. The following conditions additionally apply:

- a. Copies of e-pubs that may be counted toward a publications eligibility for Periodicals prices:
  - 1. Must be paid at a price above nominal rate for publications approved in the General category.
  - 2. Must be requested in writing or by electronic correspondence for publications approved in the Requester category.
- b. Access to electronic copies of a Periodicals publication offered in conjunction with printed copies of the same issues may not be counted when determining total circulation for the publication.
- c. At least 40% of the total circulation of each issue must consist of printed copies.
- d. Publications for which at least 60% of total circulation consists of printed copies to subscribers or requesters, as applicable, will be exempt from annual circulation audits.
- e. If less than 60% of a Periodicals publication's total circulation consists of printed copies distributed to subscribers or requesters, as applicable, annual Postal audits must be conducted by a certified audit bureau

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR 111 if our proposal is adopted.

**Stanley F. Mires,**

*Attorney, Legal Policy and Legislative Advice.*

[FR Doc. 2012-2374 Filed 02/02/2012 at 8:45 am; Publication Date: 02/03/2012]